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DONALD L. CHAMPAGNE
PRIMARY EXAMINER

*Transmitted 7/18/30 ET
25 June 06*

Date: 25 Jun 2006

To: Aaron T. Borrowman, Esq.	From: Donald L. Champagne
Application/Control Number: 09/589,266	Art Unit: 3622
Fax No.: 818-340-2859	Phone No.: 571-272-6717
Voice No.: 818-340-7900	Return Fax No.: 571-273-6717 (informal)
Re: DWORK-44428	CC:
<input checked="" type="checkbox"/> Urgent <input type="checkbox"/> For Review <input type="checkbox"/> For Comment <input checked="" type="checkbox"/> For Reply <input checked="" type="checkbox"/> Per Your Request	

Comments:
Aaron,

This is a reply to your status inquiry filed on 19 June 2006.

Incidentally, I congratulate you and applicant Barry Dworkin on your success before the BPAI. You can tell Barry that I admire his good sense in seeking legal counsel. In keeping with Office policy, I have advised numerous applicants pro se over the past eight years to seek legal counsel. To my recollection he is the first to take that advise.

In answer to your inquiry, the Office is not comfortable with the allowance of claims 4-8. My boss opined that the BPAI's decision on the "101" rejection is "improper". Our premier counselor in the Tech Center advised that "We need to try a request for reconsideration on this, otherwise it would effectively be a change in policy." I favor simply acting on the BPAI's remand (pp. 10-11 of the decision). I would need to do that by close of business Wednesday, June 28.

I can offer a simple alternative to continued prosecution. If I receive applicant's authorization to cancel claims 4-8 by examiner's amendment, no later than your close of business Monday, June 26, I would be pleased to immediately sign an allowance for claims 9-13.

Please feel free to telephone me (571-272-6717) if I can be of further help to applicant in this matter. I expect to leave the Office in early afternoon (ET) on Monday. You may leave applicant's instructions on my voicemail, or you may call me at home, 301-920-0976, if you have questions.

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